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March 30, 2006

The Honorable Charles Terreni
Chief Clerk and Administrator
Public Service Commission of South Carolina
Attention: Docketing Department
P. O. Drawer 11649
Columbia, South Carolina 29211

RE: Docket No. 2004-219-E

Dear Mr. Terreni:

Enclosed for filing are an original and fifteen (15) copies of Progress Energy Carolinas, Inc.'s Motion to Close Docket in the above-referenced docket.

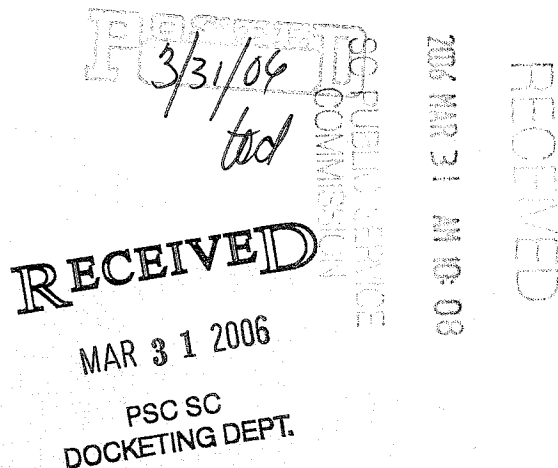
Sincerely,

A handwritten signature in cursive script that reads 'Len S. Anthony'.

Len S. Anthony *LSA*
Deputy General Counsel – Regulatory Affairs

LSA:gac

cc: Office of Regulatory Staff
Beatrice Weaver
Mark Buyck, Esq.



RETURN DATE: *N/A*
SERVICE: *ok ted*

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

March 30, 2006

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SOUTH CAROLINA
PUBLIC SERVICE
COMMISSION

In the Matter of)	
)	
Petition of Progress Energy Carolinas, Inc.)	MOTION TO CLOSE DOCKET
To Terminate Service)	
)	
)	

1. The above-referenced docket was established by the Public Service Commission of South Carolina ("the Commission") on August 5, 2004, in response to Progress Energy Carolinas, Inc.'s ("PEC") filing on August 4, 2004 of a Petition to Terminate Service to Mrs. Beatrice Weaver's ("Respondent") properties at 1253 Harllees Bridge Road, Little Rock, South Carolina.

2. On October 13, 2005, PEC wrote the Commission a letter asking to withdraw the August 4, 2004 Petition, noting that during the intervening fourteen months (during which the Commission had scheduled hearings for December 9, 2004; March 10, 2005; and December 14, 2005, all of which were ultimately continued at the Respondent's request, citing health reasons) many of the conditions that had prompted the original Petition had "improved dramatically," and that PEC no longer desired a hearing on this matter. The Commission issued an Order Granting Request to Withdraw Petition Without Prejudice on October 31, 2005.

3. The Respondent subsequently wrote a letter to the Commission dated November 25, 2005, asking the Commission to order PEC to reconnect service to her house (which has been disconnected since December 21, 2001 for non-payment of over \$5000 in electric bills) in her

name without requiring payment of the outstanding debt. PEC filed a letter with the Commission on December 6, 2005, reiterating its position that the Respondent is responsible for the debt and that service to the house should not be connected in her name until the debt is paid.

4. On December 16, 2005, the Commission issued an Order Ruling on Various Requests and Establishing Hearing in this docket, stating in part that “Progress Energy also contested [Mrs. Weaver’s] request to reenergize electric service at her house until the debt for unpaid electric bills at the premise is paid...As such, this request is a contested matter and should be scheduled for hearing at a time consistent with the Commission’s current schedule.” The Commission duly scheduled the hearing for January 12, 2006. The Respondent again cited health reasons as justification for continuing the hearing. The Commission granted her request, rescheduling the hearing for April 13, 2006. The Commission denied the Respondent’s subsequent request that the hearing be rescheduled yet again on the grounds of its proximity to Easter. The Respondent then filed a second request for continuance on the grounds that she was scheduled to have eye surgery on April 12, 2006.

5. On July 7, 2004, PEC filed suit against the Respondent and her husband Gary Weaver in Dillon County Court of Common Pleas, Fourth Judicial Circuit (Case #2004-CP-17-232), seeking recovery of the outstanding debt discussed above. PEC subsequently (on October 26, 2004) filed a Motion for Summary Judgment in this proceeding regarding Mr. and Mrs. Weaver’s mutual responsibility for the debt at issue. In an Order dated February 4, 2005 (copy attached as Exhibit 1), the court granted PEC’s Motion for Summary Judgment with respect to Mr. Weaver, but denied the Motion for Summary Judgment as to Mrs. Weaver, stating in part that “This case will proceed against Mrs. Weaver in order to determine any responsibility she may have for the debt...” The trial was scheduled for February 27, 2006, but was later continued

at the request of Mr. Weaver, who cited his wife's poor health and the fact that he "has been pre-occupied with attending her for treatment of said medical problems for the entire year of 2005 and to the present date, as required by the hospital." The court subsequently set a date certain for the trial to begin on October 30, 2006.

6. In a February 23, 2006 Motion in the civil case (copy attached as Exhibit 2), Mr. Weaver stated that PEC "has not exhausted administrative relief in this matter, having placed the same claims which are the subject of this action, before the PSC for decision. Plaintiff has engaged in redundant duplication of claims by submitting the same claims presently before this Honorable Court in its pleadings with the State's regulatory agency." In fact, PEC's claims in these two proceedings were unrelated. PEC's August 4, 2004 Petition to the Commission that opened this docket sought to disconnect service to the Respondent's two active accounts on grounds unrelated to the outstanding debt or to the Respondent's responsibility for the debt. PEC's civil lawsuit, on the other hand, dealt exclusively with collection of the debt and with Mr. and Mrs. Weaver's mutual and individual responsibility for that debt.

7. However, the civil court's January 4, 2005 ruling (Exhibit 1) and the Commission's December 16, 2005 order in this docket have redefined the original subject matter of these two proceedings so as to render them duplicative in the sense that both proceedings now seek to establish whether or not Mrs. Weaver may be held responsible for the debt incurred at her house while the electric service account was in her husband's name, and thus whether or not PEC may require payment of the debt as a condition of connecting service to her house in her name.

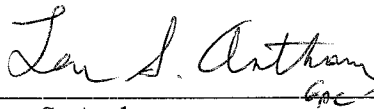
8. PEC believes that ample grounds exist for the Commission to close Docket No. 2004-219-E:

- A. The issue set for hearing in this docket duplicates the issue defined by the court in the civil case scheduled for trial in October 2006.
- B. The numerous health-related continuances in both of these proceedings underscore the fact that, as Mr. Weaver stated in his February 23, 2006 Motion for Continuance of Trial Scheduled For February 27, 2006 (Exhibit 2), "Defendant Beatrice Weaver is not physically nor medically able to participate in a trial at this time," and "Defendant cannot physically prosecute two actions simultaneously, relating to the same issues before two jurisdictions, particularly given the medical reasons filed previously with this Court."

WHEREFORE, PEC requests that the Commission grant PEC's Motion to Close Docket.

Respectfully submitted this the 30th day of March, 2006.

PROGRESS ENERGY CAROLINAS, INC.



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E-mail: Len.Anthony@pgnmail.com
Counsel for Progress Energy

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
	)	FOURTH JUDICIAL CIRCUIT
COUNTY OF DILLON	)	CASE NUMBER 2004-CP-17-00232

Progress Energy Service Company, LLC)

Plaintiff,)

vs.)

Gary Weaver and Beatrice Weaver,)

Defendants.)

ORDERCLERK OF COURT
DILLON COUNTYFILED
GWEN T. HYATT
CLERK OF COURT
DILLON COUNTY
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A hearing on all pending Motions in this matter was heard by the undersigned in Dillon on January 7, 2005. The Plaintiff was represented by Mark W. Buyck, Jr. and Mark W. Buyck, III of the firm Willcox, Buyck and Williams. The Defendant Beatrice Weaver was represented by Dan Shine. The Defendant Gary Weaver appeared *Pro Se*. The pending Motions at the time of the hearing were a Motion to Dismiss with Prejudice and for Sanctions filed by the Defendant Gary Weaver on September 3, 2004; Plaintiff's Motion for Summary Judgment filed October 26, 2004; Defendant Gary Weaver's Motion to file an Amended Answer filed on December 2, 2004; and Defendant Gary Weaver's Motion to Compel filed December 2, 2004. During the hearing the Plaintiff moved pursuant to S.C.R.C.P. Rule 15(a) for an Order of Default against the Defendant Gary Weaver. The Motion for Default was accompanied by an Affidavit of Default.

A hearing on the Plaintiff's Motion for Summary Judgment was held on December 3, 2004. During the December 3 hearing the undersigned continued the Plaintiff's Motion with leave to amend the complaint and ordered that this action be set for a January 7, 2005 hearing. The Plaintiff filed an Amended Complaint and verified claim on or about December 7, 2004. The Defendant Gary Weaver did not timely respond to the Amended Complaint within the 15 days required under

S.C.R.C.P. Rule 15(a). The Defendant Gary Weaver filed an Answer to the Amended Complaint and several counterclaims with this Court on January 4, 2005.

During the instant hearing, the Plaintiff presented the Court with an Order entered by the Honorable James E. Brogdon, Jr., Judge of the Twelfth Judicial Circuit, in the case of *Gary Weaver vs. Carolina Power and Light Company (Progress Energy), John and Jane Does 1-20, Defendants*, Case Number 2004-CP-21-703 filed in the Florence County Court of Common Pleas. Judge Brogdon's Order was filed on December 20, 2004 and granted Progress Energy's Motion to Dismiss numerous tort claims alleged by Mr. Weaver on the grounds on res judicata, failure to exhaust administrative remedies, the filed rate doctrine and failure of Mr. Weaver to file his claims within the applicable statute of limitations. Judge Brogdon noted that there was a long standing dispute between Mr. Weaver and Progress Energy which included a formal complaint before the South Carolina Public Service Commission filed in 2001 which was ultimately dismissed in Progress Energy's favor. Mr. Weaver appealed the PSC dismissal to the Dillon County Court of Common Pleas in Case Number 2002-CP-17-090. On April 19, 2002 the Honorable Paul Michael Burch, Judge of the Fourth Judicial Circuit, issued an Order dismissing Weaver's Complaint and Appeal with prejudice. All of the matters which Mr. Weaver attempts to include in his counterclaim in the instant action stem from allegations in his earlier PSC Complaint, the appeal of the PSC decision, as well as the action dismissed by Judge Brogdon. These matters are barred by the doctrine of res judicata.

Based on the foregoing, Mr. Weaver's counterclaims are stricken and will not go forward in this action. During argument on January 7, 2005 Mr. Weaver explained the he was under the impression that his Answer to the Amended Complaint would only be due prior to the January 7, 2005 hearing. The Plaintiff's Motion for Default Judgment as to Mr. Weaver is denied.

The Plaintiff has moved for Summary Judgment as to both Mr. and Mrs. Weaver. The verified record of outstanding debt contained in the Plaintiff's Amended Complaint indicates that as of December 3, 2004 the unpaid balance on the account in dispute was \$7,528.28. During the pendency of the Complaint of *Gary Weaver vs. Carolina Power and Light Company*, South Carolina Public Service Commission Docket Number 2001-249-E, the Public Service Commission entered Order Number 2001-1095 dismissing Mr. Weaver's Complaint with prejudice. This is the same Order which Mr. Weaver appealed to the Dillon County Court of Common Pleas in Case Number 2002-CP-17-090 and which was ultimately dismissed with prejudice on April 19, 2002. This Order is the law of this case. The Public Service Commission determined that as of the date of its hearing on November 27, 2001 Mr. Weaver's account balance was \$4,625.89. The Court notes that the verified account also reflects an amount due of \$4,625.89 as of November 27, 2001. The account appears to have had various activity between the date of the Public Service Commission's Order of Dismissal and January 11, 2002 including an area light refund, a loan foreclosure, and several adjustments relating to Mr. Weaver's initial deposit.

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Jef
During the hearing on this matter Mr. Weaver disputed the adjustment amount and claims he has never received a proper accounting of the area light service refund amounts. Based on the finding of the South Carolina Public Service Commission this Court determines that as of November 27, 2001 Mr. Weaver was indebted to the Plaintiff in the amount of \$4,625.89. The Court grants the Plaintiff partial Summary Judgment as to Mr. Weaver with regards to the debt. The Court is unwilling at this time to conclude as a matter of law the exact amount of the debt and hereby orders that the case will proceed as to Mr. Weaver to determine the amount of the debt.

The Plaintiffs have also moved for Summary Judgment as to the Defendant Beatrice Weaver. The Plaintiff's theory advanced in its Motion for Summary Judgment is the doctrine of necessities

and that as husband and wife Gary and Beatrice Weaver are responsible for one another's debt to the Plaintiff. The Court notes that Mrs. Weaver was not a party to the 2001 Public Service Commission Complaint or the 2002 Appeal. Mrs. Weaver was also not a party to the 2004 action recently dismissed by Judge Brogdon. The Court denies the Plaintiff's Motion for Summary Judgment as to Mrs. Weaver. This case will proceed against Mrs. Weaver in order to determine any responsibility she may have for the debt and the amount owed by her, if any.

In addition to the Plaintiff's Motion, the Defendant Gary Weaver has previously filed a Motion to Dismiss, a Motion for an Extension of Time and a Motion to Compel. All of these Motions are denied.

This dispute before this Court is a debt collection action. The parties have been given an opportunity to amend their pleadings pursuant to the Court's December 3, 2004 instructions. There will be no further amended pleadings allowed in this action. Discovery may proceed; however, all discovery must be limited to the issues of the amount of the debt and Mrs. Weaver's responsibility for any portion of the debt. In conclusion, therefore it is

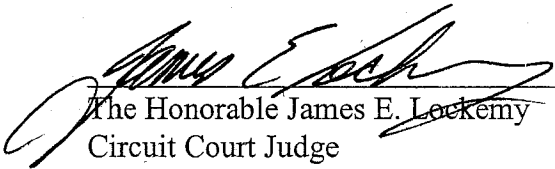
HH
GJ
ORDERED as follows:


1. Plaintiff's Motion for Summary Judgment is denied as to Beatrice Weaver.
2. The Plaintiff's Motion for Summary Judgment is granted as to the existence of a debt between the Plaintiff and the Defendant Mr. Weaver.
3. The Plaintiff's Motion for Summary Judgment as to the amount of Mr. Weaver's debt is denied.
4. Mr. Weaver's Motion to Dismiss, Motion for Extension of Time, and Motion to Compel are denied.

5. The Plaintiff's Motion for Default as to Mr. Weaver is denied; however, Mr. Weaver's counterclaims are stricken.

6. This matter will proceed solely on the amount of the debt owed by Mr. Weaver and the responsibility for Mrs. Weaver for any portion of the debt.

7. Discovery will be limited to solely to the amount of the debt owed by Mr. Weaver and Mrs. Weaver's responsibility therefore.


The Honorable James E. Lockemy
Circuit Court Judge

At Chambers
January 4, 2005


STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTH JUDICIAL CIRCUIT
COUNTY OF DILLON	)	CASE NUMBER 2004-CP-17-232
Progress Energy Carolinas, Inc.,)	
	)	MOTION FOR CONTINUANCE OF
Plaintiff,	)	TRIAL SCHEDULED FOR FEBRUARY
	)	27, 2006 (SCRCP 40(i); MEMORANDUM
vs.	)	IN SUPPORT OF MOTION; AFFIDAVIT
	)	OF GARY WEAVER; EXHIBITS A-B;
Gary Weaver and Beatrice Weaver.	)	NOTICE OF MOTION; CERTIFICATE
	)	OF SERVICE
)	
)	
)	

**MOTION FOR CONTINUANCE OF TRIAL
SCHEDULED FOR FEBRUARY 27, 2006**

Comes now Defendant Pro Se Gary Weaver ("Defendant"), and pursuant to **Rule 6 (b) (d), Rule 7 (b), Rule 12, Rule 40 (i) (1) and (2) and Rule 40 (j)** South Carolina Rules of Civil Procedure ("SCRCP"), hereby moves this Court, for good cause, for an order continuing the trial scheduled for February 27, 2006 and any extensions thereof, in this action. Pursuant to **Rule 40 (i) (1)** this Motion is timely filed.

This motion is based on the attached Memorandum in Support of Motion, the Affidavit of Gary Weaver, the Exhibits attached hereto, made part hereof, and the records and files herein, and such other and further oral and/or documentary evidence as may be presented.

This motion is filed supplementary to Defendant's **Motion For Extension Of Time For Date Of Trial Scheduled For December 12, 2005**, dated November 19, 2006, requesting a trial date "any time after March 31, 2006." A copy of this Motion is attached hereto as **Exhibit A**.

The Court having consented to that Motion, it came as a surprise to Defendant that the case was placed on the Jury Trial Roster on February 16, 2006 and set for trial on February 27, 2006, with just a few days notice to Defendant. The grounds for that motion are applicable to this motion as well, and by reference made part hereof.

The Court is respectfully requested to take judicial notice of **Docket No. 2004-219-E, Progress Energy Carolinas, Inc vs. Beatrice and Gary Weaver**, presently before the Public Service Commission of South Carolina ("PSC").

Plaintiff has not exhausted administrative relief in this matter, having placed the same claims which are the subject of this action, before the PSC for decision. Plaintiff has engaged in redundant duplication of claims by submitting the same claims presently before this Honorable Court in its pleadings with the State's regulatory agency. This redundancy is an economic and physical undue burden and hardship for Defendant, and creates unnecessary costs, and waste of the Court's and Counsels' time. Defendant cannot physically prosecute two actions simultaneously, relating to the same issues before two jurisdictions, particularly given the medical reasons filed previously with this Court.

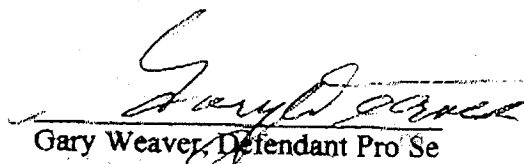
Defendant has not completed discovery for the reasons stated in the November 19, 2005 motion; Plaintiff has not responded to Defendant's Request for Production of Documents in this action and Defendant expects to file a Motion to Compel; Defendant expects **new evidence** to be forthcoming from further discovery in the aforesaid case before the PSC, which will have an impact on this action.

Finally, the main justification for this motion is the physical inability, unpredictability and the unavailability of the material witnesses (Defendants) who must be present for a safe and sufficient defense in this matter.

WHEREFORE, having fully set forth the grounds for the motion, Defendant respectfully moves this Honorable Court for an order for continuance of the subject trial at a date and time convenient to the Court and Counsel, any time after April 31, 2006. An appropriate alternative may be to approve an SCRCR Rule 40 (j) **Consent Motion to Dismiss With Leave to Restore** in the interests of judicial economy and court administrative efficiency, if the counsel agrees.

DATED: Florence County, S.C. February 23, 2006.

Respectfully submitted,


Gary Weaver, Defendant Pro Se